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August 24, 1955

ERP PROGRAM DETERMINATION NO. 1192

for Director
Bureau of Foreign Commerce

Subject: U.S. Export Control of Unclassified Technical Data
(JOC Documents 132 and 132.1)

I. Purpose

A. The primary purpose of export control of technical data by the Department of Commerce is, to the extent necessary and practicable, to deny or limit acquisition by the Soviet Bloc, directly or indirectly, of technical data which are directly and significantly related to commodities which would be denied or limited to the Soviet Bloc, without unduly restricting the exchange of technical data among free world nations.

This Program Determination concerns itself with unclassified technical data only. Authorization for the export of classified technical data is the responsibility of the Department of State.

II. Definitions and Interpretations

As used in this Program Determination, the terms below are defined and interpreted as follows:

A. Technical Data. Technical data means any professional scientific or technical information, including any model, design, photograph, photographic negative, document, or other article or material, containing a plan, specification, or descriptive or technical information of any kind which can be used or adapted for use in connection with any process, synthesis, or operation in the production, manufacture, utilization, or reconstruction of articles or materials.

B. "Classified" technical data means data which has been officially assigned a security classification (e.g., top secret, secret, confidential, etc.) by an authorized officer or agency of the United States Government. Exportation of such classified data may be made only on the written authorization of the classifying government agency or pursuant to other appropriate official regulation.

C. "Exportation" of technical data includes any release of technical data for use outside the United States, its possessions and territories.

D. "Person" means any individual, firm, association, corporation, partnership, or local or national government.

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III. Technical Data Export Controls to Subgroup A Destinations

A. General License Coverage.

1. Unclassified technical data generally available in public form may be exported to Subgroup A destinations under general license authority, provided such technical data are (a) available on newsstands or bookstores; (b) available without restriction to any person by subscription, purchase, or without cost; (c) granted second-class mailing privileges by the U.S. Post Office; or (d) freely available at public libraries.
2. Scientific information, whether or not generally available, published, may be exported under general license to Subgroup A destinations provided such information is not directly and significantly related to design, production, or utilization of industrial processes.
3. Instruction in academic institutions and academic laboratories.

B. Validated License Coverage. A validated export license shall be required for the exportation to Subgroup A destinations of technical data other than that under general license coverage.

C. Licensing Criteria.

1. BFC shall deny export license applications for technical data to Communist China and North Korea.
2. BFC shall generally deny export license applications for technical data to other Subgroup A destinations, but may approve applications where the technical data do not (a) relate directly and significantly to commodities which would be denied or limited for export to such destinations; and (b) raise, in the opinion of BFC, significant questions of national security, special political importance, or frustration of U.S. policy toward Communist China and North Korea.

IV. Technical Data Export Controls to Friendly Countries.

A. General License Coverage. Technical data may be exported to friendly foreign countries under general license authority.

B. Voluntary Control System. Exporters shall be invited to request an official advisory opinion from the Department of Commerce prior to exporting under general license any technical data which involve (a) advanced technology, know-how, prototypes, or special installations related to the export to the Soviet Bloc is restricted by the Department of Commerce, (b) questionable security implications (e.g., possible transshipment to the Soviet Bloc of the data or direct products thereof, etc.); or (c) considerations which in the opinion of the exporter, are inimical to the common security and defense.

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C. Criteria for Voluntary Control Opinions.

1. BFC shall render advisory opinions to exporters in accordance with the general presumption for approval of commodities and technical actions which (a) involve transshipment to the Soviet Bloc of the direct products thereof; (b) raise significant questions related to non-frustration policy; or (c) raise other significant questions of security. Consideration should be given to the controls exercised by friendly government of destination and the effectiveness of an advisory opinion in accomplishing the purpose of this Program Determination.

2. In order that advice to exporters may be made effective, it is understood that in exceptional cases BFC may revoke general license authority for a specific transaction, item, or project. When such action is taken, BFC shall report promptly to members of ACEP relative to such action.

V. General Provision.

In applying these controls, BFC shall consult, as necessary and appropriate, with other U.S. Government departments and agencies; it shall refer to the ACEP structure for review such cases, problems, or recommendations for changes in this Program Determination as require interagency policy consideration.

VI. Effect.

This Program Determination supersedes CEI Program Determination No. 1150, and Amendment 1 and Supplement 1 thereto.

John D. Garrett
John D. Garrett
Executive Secretary
Advisory Committee on Export Policy

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